

Chapter 7: GLOSSARY

- 7.1 Box** -- A box is the place on the Master and Drug Grids where the criminal history score of the offender and the group of the offense of conviction intersect. There are 45 boxes on the Master Grid and 15 boxes on the Drug Grid, which indicate the sentencing options for each combination of offense and criminal history. Boxes are identified by using the number of the offense of conviction group (1-9) and the letter of the criminal history column (A-E). Thus, Box 9A is in the lower left hand corner of the Master Grid and contains the lowest possible sentencing options. Box 1E is in the upper right hand corner of the Master Grid and contains the highest possible sentencing options.
- 7.2 Completion of the Sentence** -- A criminal sentence is completed when a person is sentenced, is released from jail or prison, or finishes probation, parole, or supervised release, whichever is latest. A juvenile adjudication is completed when the disposition is entered or when the person is released from Oak Hill or its functional equivalent, see § 7.19, or, in Groups 1-5, from a locked residential facility or the locked section of a residential facility, whichever is latest.
- 7.3 Compliant Sentence** -- A sentence is compliant if it is one of the options permitted in the appropriate box. For example, in Box 9A, which is light gray, probation, a short split sentence, or a prison sentence between 1 and 12 months would all be compliant. In Box 1E, which is white, the only compliant sentence would be a prison sentence of not less than the mandatory minimum of 360 months (30 years) nor more than the statutory maximum of 720 months (60 years). A sentence also is compliant if it is within the prison range that is expanded by a statutory enhancement. A sentence also is compliant if it is imposed under Rule 11(e)(1)(C). A sentence also is compliant if the judge departs from the options in the box by applying one of the enumerated aggravating or mitigating factors, including applying the catchall of another substantial and compelling basis comparable in gravity to the other enumerated mitigating and aggravating factors. A judge is not required to explain why s/he imposed a compliant sentence. If the judge departs (applies an aggravating or mitigating factor), however, the judge must indicate which factor(s) was found and if the catchall aggravating or mitigating factor is used, the judge must further indicate what the substantial and compelling basis of comparable gravity was. To summarize, the following sentences are compliant:
- (a) a sentence in the appropriate box (including the mandatory minimum, if applicable);
 - (b) a sentence in the appropriate box as expanded by a statutory enhancement;
 - (c) a sentenced outside of the box where there is a substantial and compelling reason contained in one of the enumerated aggravating or mitigating factors or one of like gravity; and

(d) a sentence or sentencing range agreed to and accepted under Rule 11(e)(1)(c).

7.4 Crime of Violence – The term "crime of violence" means the following offenses whether armed or unarmed:

Aggravated assault;
An act of terrorism;
Arson;
Assault on a police officer;
Assault with a dangerous weapon;
Assault with intent to commit any felony;
Assault with intent to kill;
Burglary;
Carjacking;
Child sexual abuse;
Cruelty to children in the first degree;
Extortion or blackmail accompanied by threats of violence;
Kidnapping;
Mayhem;
Malicious disfigurement;
Manufacture or possession of a weapon of mass destruction;
Murder;
Negligent homicide;
Possession of a firearm during the commission of a crime of violence only
Riot;
Robbery;
Sexual abuse in the first, second, and third degrees;
Use, dissemination, or detonation of a weapon of mass destruction;
Voluntary manslaughter; or
An attempt or conspiracy to commit any of the foregoing offenses as defined by any Act of Congress or any State law, if the offense is punishable by imprisonment for more than one year.

7.5 Criminal History Score -- The criminal history score is the total number of points a defendant accumulates for his/her prior convictions and prior adjudications, calculated according to the guideline's rules for scoring. See § 2.2. The criminal history scores range from zero to six or more points and determine where to place the defendant in the five columns, lettered A through E, on the horizontal axis of the grid. The columns contain the following number of points:

A 0 to ½;
B ¾ to 1 ¾;

- C 2 to 3 $\frac{3}{4}$;
- D 4 to 5 $\frac{3}{4}$; and
- E 6+ points.

- 7.6 Dark Gray or Dark Shaded Boxes** -- These are boxes on the Master Grid and the Drug Grid where a short split sentence is a permissible option. A prison sentence within the indicated range would also be compliant. Any other option, including probation, would not be compliant, absent a departure. There are four dark gray boxes on the Master Grid and three dark gray boxes on the Drug Grid. On the Commission's website, <http://acs.dc.gov>, the dark gray boxes on the Master Grid and Drug Grid are green. (On a non-color printer, the green boxes will print dark gray but will be light enough that the numbers in the boxes will still be legible.)
- 7.7 Departure Principle** -- A departure principle is a substantial and compelling reason that permits a sentence outside of the appropriate box, or a "departure." A departure can be based on one or more of the enumerated aggravating or mitigating factors, or another substantial and compelling reason of equal gravity. For example, a probation sentence or a short split in a prison-only box would be a departure if the judge based the sentence on one or more mitigating factors. A prison sentence longer than the higher number in the prison range for a particular box would be a departure if the judge based the longer sentence on one or more aggravating factors. A departure is a compliant sentence. To assist the Commission in data collection and analysis of the efficacy of the guidelines, the judge must indicate upon which mitigating or aggravating factor s/he relied to depart. If the judge uses the catchall (Aggravating Factor #11; Mitigating Factor #10), then the judge must more specifically state what factor s/he found that was substantial and compelling and of equal gravity to the enumerated aggravating and mitigating factors.
- 7.8 Drug Grid** --The Drug Grid is a chart that contains the sentencing options for all drug offenses. There are 15 boxes on the Drug Grid, arranged in three rows on the vertical axis and five columns on the horizontal axis. The boxes range from Box 3A, the least serious offense and the lowest criminal history score, to 1E, the most serious offense and the highest criminal history score.
- 7.9 Enhancements or Statutory Enhancements** -- An enhancement or statutory enhancement is a statutory mechanism for increasing the maximum sentence if certain factors -- such as recidivism, the vulnerability of the victim, etc. -- are present. The guidelines permit the upper number of the prison range in each box to be increased by the same proportion or ratio as the maximum sentence can be increased. See Appendix H, Statutory Enhancements.
- 7.10 Event** -- For purposes of determining which offenses count for criminal history scoring purposes, see § 2.2.5, and which offenses must be sentenced consecutively/concurrently, see Chapter 6, the phrase "a single event" means

offenses that occur at the same time and place or have the same nucleus of facts. The phrase “multiple events” means offenses that occur at different times or places or have a different nucleus of facts.

Examples

One event: Defendant robs a convenience store. As he is leaving, but still inside the store, he engages in a gun battle with police officer who has the store under surveillance.

Two events: Defendant robs a convenience store at gunpoint. He speeds away from the scene and is stopped for a traffic violation. He shoots at the police officer.

7.11 Five-Year Window -- The five-year window is the five years preceding the commission of the instant offense. If, during this period of time, a person had a juvenile disposition, or was released from Oak Hill or its functional equivalent, or for a Master Group 1 - 5 offenses, was released from a locked residential facility or the locked section of a residential facility, that adjudication is counted toward the criminal history score (with a cap of 1½ points unless there are multiple offenses in Severity Groups 1-5).

7.12 Guidelines --The guidelines are the combination of grids, standards, rules, adjustments and exceptions that provide guidance to the court in imposing a sentence that meets the objective of sentencing like defendants/offenses alike and different defendants/offenses differently.

7.13 In/out Decision -- The in/out decision is the decision to impose a sentence of incarceration (so that the offender will be IN prison) or to impose some form of probation (so that the offender will be OUT of prison) or a combination of the two (split sentence). The in/out decision is the first decision the court makes when determining what sentence to impose. Term length (either the length of the probation term, the lengths of the terms of the short split or the length of the prison sentence) is the second decision the court makes.

7.14 Instant Case -- The instant case is the case being sentenced.

7.15 Lapsed Conviction/Adjudication -- A lapsed conviction/adjudication is one that is not scored for criminal history because it is too old under the applicable rules. See § 2.2.3 for adult lapse period; § 2.2.4 for juvenile lapse period. See also § 2.2.3 for rules on reviving convictions.

7.16 Light Gray or Light Shaded Boxes -- These are the boxes on the Master Grid and the Drug Grid where probation, a short split sentence, and a prison sentence are all permissible and compliant options. There are five light gray boxes on the Master Grid and seven light gray boxes on the Drug Grid. On the Commission's

website, <http://acs.dc.gov>, the light gray boxes on the Master Grid and Drug Grid are yellow. (On a non-color printer, the yellow boxes will print light gray.)

- 7.17 Long Split Sentence** -- A long split sentence is one where the court imposes a sentence within the applicable prison range, suspends execution of all but a term that also falls within the applicable prison range, and places the defendant on probation for a period up to five years. Because both the sentence imposed and the term to be served initially fall within the applicable prison range, this is a compliant sentence. As each box on the Master Grid and the Drug Grid has a prison range recommendation, a long split is a compliant sentence in any box. If either the number of months that the court imposes or the number of months to be served immediately does not fall within the applicable prison range for that box, such a sentence would not be compliant unless some other principle applies. See, e.g.; § 7.7, Departure Principles; § 7.9, Enhancement or Statutory Enhancement § 7.25, Short split Sentences;
- 7.18 Master Grid** -- The Master Grid is a chart that contains the sentencing options for all offenses except drug offenses, which are on the Drug Grid. There are 45 boxes on the Master Grid, arranged in nine rows on the vertical axis and five columns on the horizontal axis. The boxes range from Box 9A, the least serious offense and the lowest criminal history score to 1E, the most serious offense and the highest criminal history score. Prison sentences increase and sentencing options decrease as one moves from the bottom to the top and from left to right on the chart.
- 7.19 Oak Hill or its Functional Equivalent** -- Oak Hill is the current secure facility for juvenile offenders located in Laurel, Maryland. Its functional equivalent would be facilities such as the former Cedar Knoll or the former Receiving Home, the new detention facility on Mt. Olivet Road, and similar juvenile detention facilities in other jurisdictions such as Cheltenham or the Hickey School in Maryland, Beaumont in Virginia, or Spofford in New York.
- 7.20 Offense of Conviction** -- The offense of conviction is that offense (charge) for which the defendant was convicted and is facing sentencing. The offense of conviction, not real offense conduct, controls a defendant's placement in an Offense Severity Group. This means that if the indictment charged the defendant with Armed Robbery but the defendant was convicted of Robbery, either at trial or by way of guilty plea, the offense of conviction is Robbery in Group 6, not Armed Robbery in Group 5, even if strong evidence exists that the defendant actually committed the robbery while armed. While the offense of conviction controls where on the vertical axis (containing the Offense Severity Groups) this charge falls, the court may consider real offense conduct in accordance with Constitutional principles and general sentencing case law when deciding where within a box to sentence the defendant.

- 7.21 Offense Severity Group** -- All felonies have been placed in a group with offenses of like seriousness as measured by the Commission's understanding of typical offenses and historical sentencing data. These groups are arranged along the vertical axis from Group 1 (first degree murder) to Group 9 (receiving stolen property, etc.) on the Master Grid and from Group 1 (distribution of a controlled substance while armed) to Group 3 (attempt distribution) on the Drug Grid.
- 7.22 Prior Conviction, Prior Adjudication** – For purposes of computing criminal history score, a prior conviction or prior juvenile adjudication is any conviction or juvenile adjudication for which a sentence or disposition was imposed on a day prior to the day of sentencing in the instant case, regardless of the order in which the offenses were committed. Sentences or dispositions imposed on the same day as the sentence in the instant case are not prior convictions or adjudications for criminal history scoring purposes.
- 7.23 Real Offense Conduct** -- Real offense conduct is what the defendant actually did. A defendant's placement in an Offense Severity Group is based on the offense of conviction rather than real offense conduct. Real offense conduct can be taken into consideration in determining where within the appropriate box an offender should be sentenced, and in determining whether there is a departure principle that would take him/her out of the box.
- 7.24 Revived Conviction** -- A revived conviction is a felony conviction for which the sentence was completed more than ten years before the commission of the instant offense that would not be counted toward the criminal history score but for the existence of a sentence for another felony in the ten-year window. Revived convictions for Master Groups 6-9 and Drug Groups 2-3 are scored differently than convictions within the ten-year window. See § 2.2.3. Juvenile adjudications and misdemeanors are never revived themselves and cannot revive earlier felonies or adjudications.
- 7.25 Short-Split Sentence** -- A sentence where the court imposes a sentence within the applicable prison range, suspends execution of all but six months or less (but not all) of it, and places the defendant on probation up to five years. Absent a departure, it can be used only in the shaded boxes. If the judge suspends execution of all but some period longer than six months, this is a split sentence, but not a short split sentence. See § 7.17, Long Split Sentence.
- 7.26 Statutory Minimum** – A statutory minimum is a minimum sentence prescribed by statute which is not a mandatory minimum. A list of statutory minimum sentences is found in Appendix I.
- 7.27 Ten-Year Window** -- The ten-year window is the ten years preceding the commission of the instant offense. If, during this period of time, a person was sentenced, released from jail or prison, or finished probation, parole, or supervised release, that conviction is said to be “within the 10-year window” and

is counted toward the criminal history score. Prior felony convictions that are within the 10-year window can revive lapsed felony convictions.

- 7.28 Voluntary Guidelines --** The Guidelines are voluntary. This means that judges have discretion to impose any lawful sentence. There are no sanctions for failing to follow the guidelines, though the court is required to explain why it imposed a noncompliant sentence. Lawful sentences cannot be appealed regardless of whether they comply with the guidelines or not.
- 7.29 White or Unshaded Boxes --** These are the boxes on the Master Grid and the Drug Grid where prison is the only permissible and compliant option, absent a mitigating factor. Altogether there are 35 white boxes on the Master Grid and 5 white boxes on the Drug Grid.